BEFORE THE DIRECTOR DEPARTMENT OF CONSUMER AFFAIRS BUREAU OF AUTOMOTIVE REPAIR STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

HAIK MOURADIAN

8424 Terhune Ave. Sun Valley, CA 91352 Smog Check Inspector License

Respondent.

Case No. 79/16-05s

OAH No. 2015080410

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter.

This Decision shall become effective

TAMARA COLSON

Assistant General Counsel

Department of Consumer Affairs

1	KAMALA D. HARRIS		
2	Attorney General of California MARC D. GREENBAUM	·	
3	Supervising Deputy Attorney General MICHAEL A. CACCIOTTI		
4	Deputy Attorney General State Bar No. 129533		
5	300 So. Spring Street, Suite 1702 Los Angeles, CA 90013		
6	Telephone: (213) 897-2932		
7	Facsimile: (213) 897-2804 Attorneys for Complainant		
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A 15	FOR THE BUREAU OF AUTOMOTIVE REPAIR		
9,,		CALIFORNIA	
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11	In the Matter of the Statement of Issues Against:	Case No. 79/16-05S	
12	HAIK MOURADIAN	OAH No. 2015080410	
13	8424 Terhune Ave.	STIPULATED SETTLEMENT AND	
14	Sun Valley, CA 91352 Smog Check Inspector License	DISCIPLINARY ORDER	
15	Respondent.		
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17	THE TO THE DEPTH CONTENTS AND A CO		
18	IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-		
19	entitled proceedings that the following matters are true:		
20	PARTIES		
21	1. Patrick Dorais ("Complainant") is the Chief of the Bureau of Automotive Repair -		
22	I/M Smog. He brought this action solely in his official capacity and is represented in this matter		
23	by Kamala D. Harris, Attorney General of the State of California, by Michael A. Cacciotti,		
24	Deputy Attorney General.		
25	2. Respondent Haik Mouradian ("Resp	ondent") is representing himself in this	
26	proceeding and has chosen not to exercise his right to be represented by counsel.		
27	3. On or about June 9, 2014, Respondent filed an application dated June 3, 2014, with		
	the Bureau of Automotive Repair – I/M Smog to	obtain a Smog Check Inspector License.	
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JURISDICTION

4. Statement of Issues No. 79/16-05S was filed before the Director of Consumer Affairs (Director), for the Bureau of Automotive Repair (Bureau) and is currently pending against Respondent. The Statement of Issues and all other statutorily required documents were properly served on Respondent on July 24, 2015. A copy of Statement of Issues No. 79/16-05S is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

- 5. Respondent has carefully read, and understands the charges and allegations in Statement of Issues No. 79/16-05S. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.
- 6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Statement of Issues; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.
- 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

- 8. Respondent admits the truth of each and every charge and allegation in Statement of Issues No. 79/16-05S.
- 9. Respondent agrees that his Smog Check Inspector License is subject to denial and he agrees to be bound by the Director's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

10. The stipulation shall be subject to approval by the Director or her designee.Respondent understands and agrees that counsel for Complainant and the staff of the Bureau may

communicate directly with the Director and staff of the Department of Consumer Affairs regarding this stipulation without notice to or participation Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Director considers and acts upon it. If the Director fails to adopt this stipulation as the Decision and Order the Stipulated Settlement and Disciplinary Order shall be of no force and effect, except for this paragraph it shall be inadmissible in any legal action between the parties and the Director shall not be disqualified from further action by having considered this matter.

- 11. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.
- 12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.
- 13. In consideration of the foregoing admissions and stipulations, the parties agree that the Director may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Respondent's Smog Check Inspector License will be issued and immediately revoked. The revocation will be stayed and the Respondent placed on one (1) year probation on the following terms and conditions.

- 1. **Obey All Laws.** Comply with all statutes, regulations and rules governing automotive inspections, estimates and repairs.
- 2. **Reporting.** Respondent or Respondent's authorized representative must report in person or in writing as prescribed by the Bureau, on a schedule set by the Bureau, but no more

In the Matter of the Statement of Issues Against: Haik Mouradian

STIPULATED SETTLEMENT (79/16-058)

frequently than each quarter, on the methods used and success achieved in maintaining compliance with the terms and conditions of probation.

- 3. Report Financial Interest. Within 30 days of the effective date of this action, report any financial interest which any partners, officers, or owners of the Respondent facility may have in any other business required to be registered pursuant to Section 9884.6 of the Business and Professions Code.
- 4. Random Inspections. Provide Bureau representatives unrestricted access to inspect all vehicles (including parts) undergoing repairs, up to and including the point of completion.
- 5. Jurisdiction. If an accusation is filed against Respondent during the term of probation, the Director of Consumer Affairs shall have continuing jurisdiction over this matter until the final decision on the accusation, and the period of probation shall be extended until such decision.
- 6. Violation of Probation. Should the Director of Consumer Affairs determine that Respondent has failed to comply with the terms and conditions of probation, the Department may, after giving notice and opportunity to be heard suspend or revoke the license.
- 7. False and Misleading Advertising. If the accusation involves false and misleading advertising, during the period of probation, Respondent shall submit any proposed advertising copy, whether revised or new, to the Bureau at least thirty (30) days prior to its use.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Smog Check Inspector License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED;	9/14/15	
		HAIK MOURADIA

Respondent

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ENDORSEMENT The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Director of Consumer Affairs. Dated: Respectfully submitted, KAMALA D. HARRIS Attorney General of California MARC D. GREENBAUM Supervising Deputy Attorney General Deputy Attorney General Attorneys for Complainant LA2014512884 51897241.doc

Exhibit A

Statement of Issues No. 79/16-05S

KAMALA D. HARRIS Attorney General of California 2 MARC D. GREENBAUM Supervising Deputy Attorney General 3 MICHAEL A. CACCIOTTI Deputy Attorney General State Bar No. 129533 300 So. Spring Street, Suite 1702 Los Angeles, CA 90013 5 Telephone: (213) 897-2932 6 Facsimile: (213) 897-2804 7 Attorneys for Complainant 8 BEFORE THE DEPARTMENT OF CONSUMER AFFAIRS FOR THE BUREAU OF AUTOMOTIVE REPAIR STATE OF CALIFORNIA 10 11 Case No. 79/16-05s In the Matter of the Statement of Issues 12 Against: 13 HAIK MOURADIAN STATEMENT OF ISSUES 14 Smog Check Inspector License Applicant 15 Respondent. 16 17 Complainant alleges: 18 **PARTIES** 19 Patrick Dorais (Complainant) brings this Statement of Issues solely in his official 1. capacity as the Chief of the Bureau of Automotive Repair (Bureau), Department of Consumer 20 21 Affairs. 22 2. On or about June 9, 2014, the Bureau received an application for a Smog Check 23 Inspector License from Haik Mouradian (Respondent). On or about June 3, 2014, Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and 24 representations in the application, wherein he admitted that he had a previous license, certificate 25 26 or registration that had been revoked. The Bureau denied the application on June 23, 2014, pursuant to Health and Safety Code section 44072.1, subdivisions (c) and (d), and California 27 28 Code of Regulations, title 16, section 3395.1. 1

STATEMENT OF ISSUES

PRIOR LICENSE - PRIOR DISCIPLINE

Automotive Repair Dealer Registration

3. On a date uncertain in 2005, the Bureau issued Automotive Repair Dealer Registration No. ARD 242975 to Haik Mouradian doing business as Smog Ease Test Only Center. The registration expired on December 31, 2008 and was revoked on May 11, 2009.

Smog Check, Test Only, Station License

4. On January 11, 2006, the Bureau issued Smog Check, Test Only, Station License No. TC 242975 to Haik Mouradian doing business as Smog Ease Test Only Center. The registration expired on December 31, 2008 and was revoked on May 11, 2009.

Advanced Emission Specialist Technician License

5. On a date uncertain in 2004, the Bureau issued Advanced Emission Specialist Technician License No. EA 149984 to Haik Mouradian. Effective May 11, 2009, the technician license was revoked.

Prior Discipline

6. On February 15, 2008, Accusation No. 79/08-51 was filed, alleging Respondent violated various sections of the Business and Professions Code, Health and Safety Code, and California Code of Regulations, title 16. Effective May 11, 2009, pursuant to the Stipulated Revocation and Disciplinary Order in Accusation no. 79/08-51, Respondent's Automotive Repair Dealer Registration No. ARD 242975, Smog Check Test Only Station License No. TC 242975 (formerly designated as Automotive Repair Dealer Registration No. AM 242975 and Smog Check Test Only Station License No. TM 242975, respectively), and Advanced Emission Specialist Technician License No. EA 149984 were revoked. The Stipulated Revocation and Disciplinary Order in Accusation No. 79/08-51, is attached as Exhibit A and is incorporated by reference.

JURISDICTION

7. This Statement of Issues is brought before the Director of Consumer Affairs (Director) for the Bureau under the authority of the following laws.

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STATUTORY PROVISIONS

- 8. Section 44072 of the Health and Safety Code provides, in pertinent part, that the director may refuse to issue a license to any applicant for the reasons set forth in Section 44072.1.
 - 9. Section 44072.1 of the Health and Safety Code states:

"The director may deny a license if the applicant, or any partner, officer, or director thereof, does any of the following:

- "(b) Was previously the holder of a license issued under this chapter [the Motor Vehicle Inspection Program (Health and Saf. Code, § 44000, et seq.)], which license has been revoked and never reissued or which license was suspended and the terms of the suspension have not been fulfilled.
- "(c) Has committed any act which, if committed by any licensee, would be grounds for the suspension or revocation of a license issued pursuant to this chapter.
- "(d) Has committed any act involving dishonesty, fraud, or deceit whereby another is injured or whereby the applicant has benefitted."
- 10. Section 44002 of the Health and Safety Code provides, in pertinent part, that the Director has all the powers and authority granted under the Automotive Repair Act for enforcing the Motor Vehicle Inspection Program.
- 11. Section 477 of the Business and Professions Code provides, in pertinent part, that "Board" includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency." "License" includes "certificate," "registration" or other means to engage in a business or profession regulated by the code.

REGULATORY PROVISIONS

12. California Code of Regulations, title 16, section 3395.1 states:

"A person whose registration has previously been refused validation or who has committed acts prohibited by Section 9884.7 of the Act shall, as a condition to any subsequent consideration of an application for validation of his registration, submit evidence which is deemed to be

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sufficient to establish his rehabilitation. The evidence of rehabilitation shall be submitted in addition to any other information which may be required by the bureau."

FIRST CAUSE FOR DENIAL OF APPLICATION

(Previously Revoked License)

13. Respondent's application for a smog check inspector license is subject to denial pursuant to Code section 44072.1, subdivision (b), in that effective May 11, 2009, Advanced Emission Specialist Technician License No. EA149984, a license previously held by Respondent, was revoked pursuant to the Stipulated Revocation and Disciplinary Order in Accusation No. 79/08-51, Exhibit A.

SECOND CAUSE FOR DENIAL OF APPLICATION

(Acts if Committed by a Licentiate Constitute Grounds for Discipline)

14. Respondent's application for a smog check inspector license is subject to denial pursuant to Health and Safety Code section 44072.1, subdivision (c), in that Respondent committed acts which if committed by a licentiate would be grounds for suspension or revocation of a license, as more particularly set forth in the Stipulated Revocation and Disciplinary Order in Accusation No. 79/08-51, Exhibit A.

THIRD CAUSE FOR DENIAL OF APPLICATION

(Acts Constituting Dishonesty, Fraud or Deceit)

15. Respondent's application for a smog check inspector license is subject to denial pursuant to Health and Safety Code section 44072.1, subdivision (d), in that Respondent committed acts involving dishonesty, fraud or deceit, as more particularly set forth in the Stipulated Revocation and Disciplinary Order in Accusation Number 79/08-51, Exhibit A.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Director issue a decision:

1. Denying the application of Haik Mouradian for a Smog Check Inspector License; and

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1	2. Taking such other and further action as deemed necessary and proper.
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3	DATED: 7/22/15 PATRICK DORAN by Dun Bada
4	PATRICK DORAIS Chief Chief Chief
5	Bureau of Automotive Repair Department of Consumer Affairs 75515 Chief State of California
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